

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>New Part 4 of the Commission's Rules</b>	)	<b>ET Docket No. 04-35</b>
<b>Concerning Disruptions to Communications</b>	)	

**To: The Commission**

**COMMENTS OF RURAL CELLULAR ASSOCIATION**

Rural Cellular Association ("RCA")<sup>1</sup>, by its attorneys, respectfully submits these Comments in response to the request of the Federal Communications Commission ("FCC" or "Commission")<sup>2</sup> for comment on matters relevant to the requirements for reporting failure of communications links to airports in the United States.

**Introduction**

RCA is an association representing the interests of approximately 100 small and rural wireless licensees providing commercial services. Member companies offer service in more than 135 rural and small metropolitan markets where more than 14.6 million people reside in the United States. RCA offers herein its perspective on the proposed reporting requirements pertaining to airports.

**A. The FCC Should Exempt Wireless Carriers from Requirements for Reporting Communications Outages Affecting Airports**

In its Report and Order the FCC adopted rules requiring the reporting of outages that affect airports listed as current primary (PR), commercial service (CM), and reliever (RL) airports in the

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1 RCA was formed in 1993 to address the distinctive issues facing wireless service providers.

2 *Report and Order and Further Notice of Proposed Rulemaking*, ET Docket Nos. 04-35, FCC 04-188, released August 9, 2004 ("*Report and Order*" or "*NPRM*").

FAA's National Plan of Integrated Airport Systems (NPIAS) (as issued at least one calendar year prior to the outage). As a result all hub airports are covered by the outage reporting requirements, as are primary non-hub airports (commercial airports that enplane over 10,000 passengers per year) and reliever airports (used as alternatives for congested hubs). Excluded are general aviation airports (airports that do not receive scheduled commercial service). The *Report and Order* states that in sum, 806 airports (the 422 primary airports including hubs), 124 commercial service airports, and 260 reliever airports are covered by the outage-reporting requirements for special facilities.<sup>3</sup>

The Commission recognized that the critical communications infrastructure serving airports is landline based. It therefore concluded that the outage-reporting requirements for special offices and facilities, insofar as they cover communications to airports, will not be applied to satellite and terrestrial wireless communications providers at this time.<sup>4</sup>

RCA encourages the Commission to maintain the exemption of commercial mobile radio service (CMRS) providers from the network outage reporting requirements applicable to airports. RCA agrees with the Commission that all U.S. airports are subject to involvement in emergencies, catastrophes and use by essential government officials, and that all airports are potential launching pads for terrorism. The same could be said for railway facilities, seaports, hospitals, schools and centers of government. This is a broad concern that is not specifically addressed by imposing outage reporting on all CMRS carriers, none of whom to RCA's knowledge maintain dedicated facilities or access lines connected to airport towers or security offices.

The Commission expressed concern for maintenance of commercial communications links

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3        *NPRM*, at para. 65.

4        *NPRM*, at para. 66.

used by airports to support navigation, traffic control, maintenance, restoration and other links which must function continuously. These services are not typically provided by CMRS carriers, and should not cause them to be needlessly subjected to airport outage reporting requirements.

The service provided by rural wireless carriers typically consists of radiofrequency propagation coverage in common with surrounding areas. Cell sites and related facilities are designed to achieve broad geographical coverage with some overlapping contours. It would be very rare for the carrier to have a contractual obligation to provide an airport with wireless contour coverage. From the carriers' perspective, most of the airports in rural areas (even 2nd tier -3rd tier commercial airports) are so small that there is no specific financial reason to cover the airport in a manner different from the coverage of surrounding highways or farmers' fields.

The Commission should refrain from extending airport outage rules to commercial wireless carriers. Such action would constitute an overly broad regulatory mandate not specifically tailored to address the public policy concern.

#### **B. The FCC Should Limit the Reporting Requirements to Commercial Airports**

The Commission's consideration includes whether to extend the outage-reporting requirements for special facilities to cover general aviation airports, which are the airports that do not receive scheduled commercial service, and, if so, what the applicable threshold criteria should be.<sup>5</sup> RCA submits that the rules should not be extended to cover general aviation airports. The resources of CMRS and other communications carriers should not be requisitioned to subsidize the security and operations of every private airport installation. The wireless communications industry

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5 *NPRM*, at para. 67.

devotes incredible resources to protecting personal safety by deploying enhanced 911 services, and to advancing law enforcement policy objectives by installing CALEA capabilities. The economic demands of these objectives are especially burdensome to small and rural wireless carriers. Regulatory obligations should not be augmented with reporting requirements involving general aviation airport facilities.

**C. The FCC Should Exempt Small Rural CMRS Providers from Extended Requirements**

The FCC suggests that any newly adopted network outage reporting requirements applicable to airports may not be something that small rural communications providers will be able to comply with in some cases. The Commission anticipates granting waivers of the rule to providers that file a written request for waiver that is supported with clear and convincing evidence of the need for such a waiver.<sup>6</sup> There should be no need for such a waiver process. The agency would be required to process waiver requests when the more common sense approach is to identify small rural wireless carriers as a class of providers from whom reports will not be required. Small rural CMRS carriers are not the primary communications resource for airports. As a practical matter, such carriers are presently subject to the requirements for reportable outages of their mobile switching centers, so to the extent such an outage affects an airport location, it would be reported. Should the Commission adopt new reporting requirements for airports, it should reasonably exempt small rural carriers.

**Conclusion**

RCA opposes the proposition that network outage reporting requirements for airports be extended to include commercial wireless service providers. There is no known physical nexus to either commercial or general aviation airports that would justify wireless outage reports.

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6 *NPRM*, at Fn. 211.

Furthermore, any need for a waiver process for small rural carriers should be dismissed in favor of a policy of exemption for small rural carriers.

Respectfully submitted,

**RURAL CELLULAR ASSOCIATION**

*[filed electronically]*

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